

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2019

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.NO.2627 OF 2019
AND
C.M.P.NO.12769 OF 2019

R.Rajesh Kumar .. Appellant

vs.

1.S.Revathi
2.R.Nyathi ... Respondents
(R2 minor rep. by her mother R1)

Prayer:-

Appeal filed under Section 19 of the Family Courts Act against the fair and decretal order dated 05.04.2019 made in I.A.No.6047 of 2018 in O.P.No.2636 of 2016 on the file of VII Additional Family Court, Chennai.

For Appellant : Mr.R.Prabakar
For Respondent : Mr.P.John Bosco

JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

This appeal is arising out of the order 05.04.2019 made in I.A.No.6047 of 2018 in O.P.No.2636 of 2016 by the VII Additional Family Court, Chennai.

2.When the matter is taken up for hearing, learned counsel appearing for both sides submitted that the matter has been resolved between the parties through mediation.

3.The memorandum of understanding dated 15.10.2019 signed by the parties and duly attested by their respective counsel reads as under:

a. The Appellant and the Respondent shall take immediate steps to file a petition for divorce by mutual consent recording these terms and conditions. The Appellant will come to India in the first week of December, 2019 and both the parties agree to present the mutual consent petition on or before 15th of December, 2019.

b. The Appellant shall pay a sum of Rs.15,00,000/- (Rupees fifteen lakhs only) to the Respondent herein towards the care and upbringing of their minor daughter Nyati. The same shall be split as Rs.7,00,000/- by means of a demand draft in favour of the Respondent and the said payment shall be made on the date of filing the mutual consent petition. The balance amount of Rs.8,00,000/- shall be deposited in the name of the minor child R.Nyati in a Fixed Deposit Account with the Respondent being the guardian and the original Fixed Deposit Receipt for the said account shall be handed over to the Respondent on the date of filing the mutual consent petition. The bank on which the said Fixed Deposit shall be taken shall be mutually decided and taken with a bank that has the most beneficial interest rates. The Respondent shall operate and manage the said account such that she can secure the monthly interest amount generated from the fixed deposit and utilise the same towards the upkeep of the minor child. The Fixed Deposit shall be for a period of 10 years and shall not be pre-closed prior to the child attaining majority.

c. In addition to the above, the Appellant shall pay a monthly maintenance of Rs.20,000/- (Rupees twenty thousand only) to the Respondent on or before the 5th of every calendar month towards maintenance and upbringing of the minor child. The said amount shall be deposited in the Respondent's Indian Overseas Bank, Choolaimedu branch account bearing Account Number 130801000019487 and IFSC Code IOBA0001308. The said amount shall be payable till the minor child attains the age of 25 years or gets married, whichever is later. The payment of the said sum of Rs.20,000/- shall commence from this day, 15th October, 2019, and shall continue as stated above.

d. The Appellant shall handover the original policy document bearing policy number 19460820 taken on

27.08.2015 from ICICI Ltd. for an assured sum of Rs.10,00,000/- (Rupees ten lakhs only) in favour of the minor R.Nyati on the date of filing the petition. The Appellant agrees to transfer any rights that he may have as a guardian in securing the policy and the Respondent shall be entitled to recover the said amount on behalf of the minor child on the date of its maturity i.e., 27.08.2030.

e. The Respondent shall have guardianship and permanent custody of the minor daughter R.Nyati. The Appellant shall have visiting rights over the child, once in three months on a Saturday or Sunday in the public place that is mutually agreeable to both the parties at a mutually convenient time. The Appellant shall inform the Respondent of his visit to India by means of an email one week prior to his expected visit. The parties mutually agree that the visitation shall be subject to the comfort and convenience of the child. The parties agree that the minor child shall be accompanied by the Respondent or a close relative of hers who shall stay during the visitation. The terms of this arrangement shall also be recorded in O.P.No.815 of 2016 pending on the file of the Hon'ble High Court and suitable orders may be obtained.

f. The parties agree mutually to keep each other informed of their exact address and whereabouts and in case of any change in the same, shall inform each other a week in advance of such change.

g. The Appellant shall return the list of articles that is annexed herewith and belong to the Respondent on the date of filing the mutual consent petition. The Respondent agrees to return the Mangalsutra and agrees to cooperate in the closure of the locker by handing over the locker key on the date of filing the mutual consent petition.

h. The Respondent agrees to cooperate to quash criminal proceedings, in respect of Crime No.2607 of 2015, on the file of Choolaimedu Police Station, which was initiated against the Appellant and his family members initiated by her or her family members if it is pending.

i. The Respondent shall withdraw OP No.2636 of 2016, pending on the file of the VII Additional Family Court, Chennai.

j. The parties jointly agree to expedite the mutual consent proceedings if necessary, by filing the necessary petitions to waive the waiting period of 6 months.

3.The Civil Miscellaneous Appeal stands disposed of in terms of the memorandum of understanding dated 15.10.2019 and the memorandum of understanding dated 15.10.2019 shall form part of the decree. No costs. Consequently, connected miscellaneous petition is closed.

* Xerox copy of Memo of Compromise enclosed.

Sd/-

Assistant Registrar(MDU)

//True Copy//

Sub Assistant Registrar

mmi

To

The VII Additional Family Court,
Chennai.

Copy To
The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Mr.R.Prabakar, Advocate, S.R.No.104104

+2cc to M/s.B.Poonghulali, Advocate, S.R.No.104415

SSV(CO)
CS/29/09/2020

C.M.A.No.2627 of 2019

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